APPENDIX G

[Filed March 23, 2000]

UNTIED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOAQUIN LESO FERNANDEZ,	No. 98-56927
Petitioner-Appellant,	DC# CV-97-272-RJT Central California
v.	ORDER
ERNIE ROE, Warden; et al.,	
Respondents-Appellees.	

Before: FARRIS and CANBY, Circuit Judges

The request for a certificate of appealability is granted with respect to the following issue: Did the district court err by denying appellant's claim that the trial court erred when it denied his motion pursuant to *People v. Wheeler,* 22 Cal. 3d 258 (1978), in light of *Wade v. Terhune,* 202 F.3d 1190, 1197 (9th Cir. 2000) (holding that California courts following language of *Wheeler* apply incorrect legal standard for prima

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facie case under *Batson v. Kentucky*, 476 U.S. 79 (1986))? *See* 28 U.S.C. § 2253(c)(3).

Appellant's motion for leave to proceed in forma pauperis is granted. The Clerk shall change the docket to reflect appellant's in forma pauperis status for this appeal.

The opening brief is due May 3, 2000; the answering brief is due June 2, 2000; the optional reply brief is due within 14 days after service of the answering brief.

Because appellant is a prisoner proceeding in forma pauperis and is not represented by counsel, appellant is not required to file excerpts of record. *See* 9th Cir. R. 24-1.